

AFFIDAVIT OF PROBABLE CAUSE

I, Karsten Anderson, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

1. Your Affiant is employed as a Special Agent (SA) with Homeland Security Investigations (HSI) in Bismarck, ND and has been an investigator with HSI since June of 2009. Prior to HSI, your Affiant was employed as an Officer with United States Customs and Border Protection and worked in that capacity from 2005 through 2009. Your Affiant was also employed as a Correctional Officer with the Federal Bureau of Prisons from 2001 through 2005. Prior to that your Affiant was a Combat Engineer in the United States Army from 1990 to 2001. Your Affiant has attended the Federal Law Enforcement Training Center (FLETC) on numerous occasions and is a graduate of the Criminal Investigator Training Program and the Immigration and Customs Enforcement Special Agent Training Academy.

2. As a Special Agent, your Affiant is responsible for enforcing federal criminal statutes including narcotics trafficking and human trafficking pursuant to Title 21 and Title 18, United States Code (USC). Your affiant has received training and actual experience relating to Federal Criminal Procedures, Federal Statutes, and HSI Regulations. Your Affiant has received training and instruction in the fields of investigation of narcotics and human trafficking, as well as having had the opportunity to participate in numerous investigations into narcotics trafficking.

3. As a Special Agent with HSI, your Affiant has the authority to investigate violations of federal law. Your Affiant also has authority to seek and execute federal process, to include criminal complaints. Your Affiant makes this affidavit in support of a criminal complaint charging CURTIS McGARVEY, with the offense of Sexual Exploitation of Children

and the possession of materials involving the sexual exploitation of minors in violation of 18 U.S.C. §§ 2251, 2252(a)(4)(B), and 2252(b)(2).

4. The information in this affidavit is based on your Affiant's personal knowledge and information provided to your Affiant by other law enforcement officers and individuals. The information in this affidavit is provided for the limited purpose of establishing probable cause for a criminal complaint. As this affidavit is being submitted for the limited purpose of securing a criminal complaint, your Affiant has not included every fact known to him concerning this investigation.

5. On 06-07-16 at 1509 hours Burleigh County Deputy Hoag received a report that someone was able to access and alter the cell phone data belonging to a female identified as E.L., a minor approximately 16-years-of-age. Deputy Hoag spoke with the victim, who stated that someone had obtained access to her cell phone account and had been "leaving messages" on her phone and then deleting them. E.L. stated she was concerned that someone had obtained all her passwords and accounts assigned to her phone.

6. During this same report, E.L.'s mother, C.L., stated that she received a text message stating "Last warning!! I warned her to stay away. This photo I got off [...] phone will be uploaded to every site I can if she continues to see him!!" C.L. stated the message included a photo of a nude female with E.L.'s face "photoshopped" onto the body. Burleigh County Deputy Thompson later located both the original photo of E.L. and the photoshopped version that was sent to C.L. on a phone belonging to CURTIS MCGARVEY that was seized as a result of search warrant issued by a district court judge in Burleigh County, North Dakota.

7. On 08-18-16 and 08-22-16 N.L., E.L.'s father, made a report that someone had broken into E.L.'s vehicle and stole a debit card and a "Chromebook" laptop computer. E.L.

stated she was certain that the vehicle was locked when the items were stolen and she believed someone had gained access to the vehicle by using the Keyless Entry system. The combination to this entry system was later located on a phone belonging to CURTIS MCGARVEY.

8. On 04-20-17 C.L. made a report that E.L. received a text message from the email address "e[...]thebjqueen@gmail.com." Thompson later located a "cookie" for that email address on a phone belonging to CURTIS MCGARVEY.

9. On 08-19-17 C.L. made a report that a photo of E.L. exiting a shower nude was sent to H.K., who was E.L.'s boyfriend at the time, and who was seventeen-years-of-age at the time the photo was sent to him. Thompson later located the original photo on a phone belonging to CURTIS MCGARVEY.

10. On 02-21-18 C.L. made a report that someone sent an email to Keith Henderson, an instructor with Bismarck High School in charge of the annual year book, requesting to change E.L.'s desired yearbook photo with another photo without E.L.'s knowledge or permission. Dep. Thompson spoke with Henderson who stated that he received three emails between 01-23-18 and 01-25-18 from "e[...]l[...]@gmail.com" requesting the change. Henderson stated that the emails were signed as to appear that E.L. sent them. Thompson later located the password information for that email account on a phone belonging to CURTIS MCGARVEY.

11. Deputy Thompson followed up on this ongoing case of Stalking that began on 06-07-16 and continued thru 05-06-18. During the investigation Deputy Thompson identified a number of social media accounts, voice over internet protocol (VOIP) accounts, and email accounts that were involved in this incident. Deputy Thompson was able to identify internet protocol (IP) addresses, specific photos, and language used across all accounts that linked a number of those accounts indicating that the same person was accessing all accounts. Based on

that information Dep. Thompson determined that CURTIS MCGARVEY was the individual accessing those accounts.

12. During the course of the investigation there were over fifty photos, both edited and unedited, sent to individuals, posted on social media, or released in some manner by the suspect. Thompson later was able to match over twenty-five photos located on a phone belonging to CURTIS MCGARVEY to the photos that had been released. In at least three cases Thompson was able to find the original photo before editing as well as the edited photo that was released. In three cases the photo released included E.L.'s face being placed in a photo involving a sexual act simulating her involvement in that act. In another three cases the photo released included E.L.'s face being placed in a photo on the body of a nude or partially nude female.

13. In addition, Dep. Thompson executed a search warrant on an iPhone taken from CURTIS MCGARVEY's possession on 05-11-18 that was assigned the phone number 701-595-6740. Thompson located fifteen videos surreptitiously taken of four different instances involving E.L. in a bathroom either changing clothing or taking a shower in varying stages of nudity. Thompson located a succession of 64 images indicating a fifth video taken involving E.L. in a bedroom changing clothing. Deputy Thompson located an additional 27 images that were taken from these videos and then edited focusing on E.L.'s breasts or genital area. The date stamps for two of the videos indicate they were taken in October and December of 2016 when E.L. was sixteen years of age. The time stamps for two additional videos indicate they were taken in April of 2018 when E.L. was seventeen years of age. There was no time stamp on the fifth video; however, E.L. stated she believed the video would have been taken around Thanksgiving of 2016. That fifth video was recovered prior to E.L.'s eighteenth birthday indicating she was under the age of eighteen at the time the video was taken.

14. Dep. Thompson also executed a search warrant at 726 Augsburg Ave., in Bismarck, North Dakota, a residence belonging to CURTIS MCGARVEY. During the search Dep. Thompson located numerous covert cameras and hard drives. A longer version of one of the above videos was located on one of those hard drives. In the longer version E.L. is observed exiting the bathroom after changing and a short time later CURTIS MCGARVEY is observed entering the bathroom and retrieving the camera that took the video. A sixth video was located on the memory card from one of the covert cameras. This video depicts CURTIS MCGARVEY setting up a video camera in the shower of the same bathroom from two of the above videos and then checking the view of that video camera on his cell phone.

15. In one of the videos recovered during the search of McGARVEY's devices appears to depict E.L. disrobing in a bathroom. E.L., then fully nude, enters the shower for a period of time before exiting the shower and covering herself with a towel. The video appears to have been taken with a device that was surreptitiously placed with a point of focus to ensure the capture of video depicting E.L. in full state of frontal nudity. The remaining videos recovered during the search appear to depict E.L. in partial states of nudity.

16. Based on the above facts and circumstances, your Affiant believe there is sufficient probable cause to charge, via criminal complaint, CURTIS McGARVEY, with the offense of the Sexual Exploitation or Attempted Sexual Exploitation of Children and the Possession of Child Pornography in violation of 18 U.S.C. §§ 2251, 2252(a)(4)(B), and 2252(b)(2).

FURTHER YOUR AFFIANT SAYETH NOT



Karsten D. Anderson
Special Agent
Homeland Security Investigations

Affirmed
Subscribed and sworn to me this 12th day of July, 2018, by *telephone conference.*



Charles S. Miller, Jr.
Magistrate Judge, United States District Court